THE HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition Nos.5363, 5138, 5033, 5036,
5340, 6374 of 2006,
7447, 6365, 13847 of 2005,
6890, 5258, 5259, 6646, 9044, 9479, 9281, 9773,
9845,9846, 10071, 10072, 10073 and 10074 of 2006

Dated: August ,2006

W.P.No.5363 of 2006

Between:

G. Rajeev, S/o. Venkat Reddy, aged 20 years,
R/o.2-1-133/3, Nallakunta, Hyderabad, and others.

… Petitioners

And

Government of Andhra Pradesh, represented by its
Secretary, Higher Education Department, Secretariat,
Hyderabad, and others.

… Respondents

Common order:

In all these cases, as common questions of fact and law arise for consideration they are heard together and are being disposed of by this common order.

2. While some writ petitions have been filed seeking Mandamus to

declare the proceedings dated 22-02-2006, issued in Letter No.EAMCET-2005/ADMNS/INST.SPOT.ADMNS/.06, by the fifth respondent, the Commissioner of Technical Education and Convenor, EAMCET-2005, as illegal and arbitrary, others have been filed seeking Mandamus to declare the action of the respondent-authorities in insisting for equivalency certificate from the Board of Intermediate Education, Andhra Pradesh, Hyderabad, that the Pre-university Course certificate issued by the Janardan Rai Nagar Rajasthan Vidyapeeth, Udaipur, Rajasthan, a deemed university, is equal to that of Intermediate course, as illegal and arbitrary. A consequential direction to the respondents is sought not to insist for such certificate and permit the petitioners to prosecute their B. Tech course in private engineering colleges.

3. For the purpose of convenience and disposal of the cases, only the averments made in W.P.No.5363 of 2006, which are similar in all other cases, are referred to.

4. In the affidavit filed in support of the writ petition, it is stated that all the four petitioners have joined B. Tech course in the fifth respondent, a private engineering college, during the academic year 2005-06 pursuant to the spot admissions made by the said college. While petitioners 1 and 2 joined in Mechanical (Production) Engineering course, petitioners 3 and 4 joined in Civil Engineering course. Earlier, while the petitioners were prosecuting other courses, they also enrolled themselves for the Pre-university course conducted by the Janardan Rai Nagar Rajasthan Vidyapeeth, a deemed university, recognized by the University Grants Commission, as required under Section 3 of the University Grants Commission Act, 1956 ('the UGC Act' for brevity). It is further stated that after completing

the said course, which is a Senior Secondary level course, the petitioners have appeared for the examinations conducted by the university and ultimately, they were declared to have passed the said examination and memoranda of marks were issued on 15-10-2005. After completion of the said course, the petitioners have applied to the fifth respondent, a private engineering college, for admission into B. Tech course in the institutional spot admissions. The management of the said college sought ratification of their names by sending the list of admitted candidates in the spot admissions made for the said course, to the second respondent, the Convenor, for the academic year 2005-06. However, the Convenor, EAMCET-2005 has issued the impugned proceedings, declaring that the Pre-university course undergone by the petitioners is not equivalent to Intermediate course; as such, they are not eligible for admission into B. Tech course and directed for removal of their names from the respective colleges, while issuing ratification orders for spot admissions.

5. Respondents 1 and 2 have filed counter affidavit stating that admissions in un-aided non-minority professional institutions imparting under-graduate professional courses in Engineering and Pharmacy, are governed by the rules framed under G.O.Ms.No.33, Higher Education (EC) Department, dated 11-06-2003 framed under *Andhra Pradesh Professional Educational Institutions (Regulation of Admission into Under-Graduate Professional Courses through Common Entrance Test) Rules,1993***.** It is stated that as per Rule 4 (iii) of the said rules, a candidate should have passed the qualifying examination (10+2) or equivalent examination on the date of his/her counselling for admission. It is further stated that the management

seats as specified in Rule 5(C) shall be filled in either on the basis of rank obtained in EAMCET conducted by the State or EAMCET-AC conducted by the Association of colleges or on the basis of the rank obtained in All India Engineering Entrance Examination conducted by the Central Board of Secondary Education. The vacant seats, if any, may be filled up with the candidates securing not less than 50% marks in aggregate or in group subjects in the qualifying examination duly ensuring merit and transparency. It is further stated that in the light of the directions issued by the Supreme Court of India in W.P. (Civil) No.350 of 1993 dated 23-09-2005, the Government has issued G.O.Rt.No.974, Higher Education (EC) Department, dated 06-12-2005, to fill up the leftover seats in professional engineering colleges after admission of students holding EAMCET ranks in respect of both Convenor and management quota. It is clarified that the said seats had to be filled up with the candidates who have qualified in 10+2 Public Examination duly maintaining *inter se* merit as per the marks secured in the examination, without insisting on a minimum of 50% marks in aggregate or in group subjects. It is stated that the candidates have to qualify in 10+2 examination to get admitted in the course even in the institutional spot admissions.

6. It is the further case of the respondents in the counter affidavit that the Commissioner of Technical Education and Convenor, EAMCET-2005 has sought clarification from the Secretary, Board of Intermediate Education, by letter No.EAMCET-2005/ADMNS/CONVENOR/2005 dated 07-11-2005 for the purpose of eliminating ineligible candidates and the Board of Intermediate Education, in its reply, by letter dated 08-11-2005, has informed that the Pre-university course conducted by Janardan Rai Nagar Rajasthan Vidyapeeth, a deemed university, is not considered as

equivalent to Intermediate course. Precisely, it is the case of the respondents that as the petitioners do not possess the requisite qualification as required under the rules framed in G.O.Ms.No.16, Education (EC) Department dated 25-02-2004 and G.O.Ms.No.33, Higher Education (EC) Department dated 11-06-2003, their names were removed from the list of approved candidates from the respective colleges while ratifying the admissions in the institutional spot admissions.

7. A common counter affidavit for all the cases has been filed by the Board of Intermediate Education stating that the Janardan Rai Nagar Rajasthan Vidyapeeth, Udaipur, Rajasthan, a deemed university, is running the said Pre-university course in distance mode. It is stated that as per the provisions of the A.P. Intermediate Education Act, 1971 and the regulations made thereunder, it is the Board of Intermediate Education which is the competent authority to issue any certificate, treating a particular course or a certificate as equivalent to the one issued by the Board of Intermediate Education. It is further stated that the Pre-university course of Janardan Rai Nagar Rajasthan Vidyapeeth, Udaipur, does not come under the purview of university education or under the UGC Act. It is its case that the said deemed university is not at all permitted by the Distance Education Council to run 10+2 course in distance mode. It is stated that neither recognition by the Government or affiliation by the Board of Intermediate Education were granted for such a course in Andhra Pradesh, and, as early as on 27-02-2004, the said university was informed that the Board of Intermediate Education cannot issue any equivalency certificate. The same has also been clarified by the Convenor, EAMCET, by his letter dated 08-11-2005. It is further stated that the Board of Intermediate

Education, after considering the issue of 'equivalency' in the 52nd Board Meeting, resolved that the said

Pre-university course cannot be considered as equivalent to that of Intermediate course conducted by the Board of Intermediate Education, A.P., and had also communicated the same to the Government by its letter dated 27-06-2005. Thereafter, the first respondent-Government has addressed letter dated 13-09-2005 to the Board of Intermediate Education to place the matter before the Governing Body of the Board to consider as to which course conducted by the said deemed university can be made equivalent to Intermediate course and the matter has been further examined in the 58th Board Meeting of the Governing Body of the Board, wherein the proposals for equivalency of the PUC Examination conducted by the said deemed university were considered and it was decided that the said course cannot be considered as equivalent to that of Intermediate course conducted by the Board of Intermediate Education, A.P. Further reference is made to the circular instructions dated 09-08-2005, issued by the University Grants Commission, wherein it was notified that the Janardhan Rai Nagar Rajasthan Vidyapeeth, Udaipur was neither permitted to affiliate any of its colleges or institutes nor allowed to conduct any course through distance education, by the Distance Education Council. Further, while denying the authenticity of the certificates issued by different authorities, it is stated that as no equivalency was granted by the Board of Intermediate Education, A.P. constituted under the A.P. Intermediate Education Act, 1971, which the only authority competent to recognize any course/certificates as equivalent to Intermediate course in A.P., the said course/certificates issued by the said university cannot be treated as equivalent to the certificates issued by the Board of Intermediate Education, A.P.

8. In the additional counter affidavit filed by the Board of Intermediate Education, it is stated that in view of several petitions submitted by the students to the Board of Intermediate Education seeking clarification whether the said Pre-university course is equivalent to Intermediate course, the Board has deputed one of its officers to Rajasthan. It is stated that on consultation with the officials of the Board in Rajasthan, it revealed that the said
Pre-university course is not recognized by the Government of Rajasthan or the Board concerned in Rajasthan also. It is further stated that one Ravipalli Rambabu, who was imparting the course by name Uttara Madhyama, earlier, claimed that the said course should be considered as equivalent to Intermediate course.

9. Sri G. Vidyasagar, Sri Ch. Samson Babu, and several other advocates made their submissions on behalf of the petitioners. Learned Government Pleader appeared on behalf of respondents 1 and 2.
Sri Sudesh Anand, appeared for the A.P. State Council for Higher Education and learned Senior Counsel, Sri Satyanarayana Prasad, appeared for the Board of Intermediate Education.

10. The learned counsel appearing on behalf of the petitioners contend that the petitioners have passed the Pre-university examination at the end of two years after their completion of Senior Secondary Course and the said Pre-university course comprises of languages and other specialized subjects which are essential for studying engineering course and hence there is absolutely no valid reason for issuing the impugned proceedings. It is further contended that several authorities, including the Government of India and other universities have considered the said Pre-university course as

equivalent to that of Intermediate course and they have issued certificates stating that the Pre-university course of the said deemed university is equivalent to that of Intermediate course for the purpose of higher education and employment, and, in that view of the matter, the Convenor ought to have ratified the admission of the petitioners. The learned counsel have placed copies of the certificates issued by various universities, namely, N.T.R. University of Health Sciences, Nagarjuna University and Dr. B.R. Ambedkar Open University, wherein certain individual officers have certified that the said Pre-university course is equivalent to 10+2 for the purpose of future education and employment. Therefore, they submitted that the impugned proceedings appear to have been issued under misconception that the said pre-University course undergone by the petitioners is of one year duration and is not equivalent to Intermediate course, which is not correct.

11. On the other hand, leaned Government Pleader appearing for respondents 1 and 2 states that as per the rules of admission made under the provisions of the *Andhra Pradesh Professional Educational Institutions (Regulation of Admission into Under-Graduate Professional Courses through Common Entrance Test) Rules, 1993,* the candidates who are qualified in 10+2 alone are eligible for admission into B. Tech course. It is further stated that when the Government has addressed to the Board of Intermediate Education with regard to the issue of equivalency, the Board, in reply has stated that the said Pre-university course undergone by the petitioners is not equivalent to Intermediate course, and in that view of the matter, the impugned proceedings were issued. It is further stated that as the petitioners are not qualified to enter into B. Tech course, they are not entitled to seek ratification of the admissions made by private

managements in the institutional spot admissions.

12. Learned Senior counsel, Sri Satyanarayana Prasad, appearing for the Board of Intermediate Education, submits that whether the Pre-university course is equivalent to Intermediate course or not, is a matter that is in the exclusive domain of the Board of Intermediate Education, constituted under the provisions of A.P. Intermediate Education Act 1971, and the Board has, in their 52nd and 58th meetings, considered the issue of equivalency and has come to a conclusion that the said Pre-university course is not considered as equivalent to that of Intermediate course. It is further stated that whether a particular course is equivalent to another course or not, is within the purview of the academic bodies, which are constituted under the provisions of the Andhra Pradesh Education Act, 1982. When the competent authority has taken a decision and rejected the claim of equivalency, petitioners cannot claim ratification. It is also stated that correctness of the said decision taken by the Board is not at all challenged in any of the writ petitions. In that view of the matter, the relief sought for in the writ petition, to declare the impugned proceedings as illegal and further relief sought in some cases seeking directions to the respondents not to insist upon equivalency certificate, are without any basis. The learned counsel placed reliance on a Division Bench judgment of this Court reported in **Board of Adult Education and Training V. Board of Intermediate Education**[1], wherein it has been held that High Court cannot issue a writ of mandamus to academic bodies to treat a particular course of study taken up and degree obtained in another State as equivalent to a degree granted in Andhra Pradesh by referring to a judgment of the Supreme Court in **Rajendra Prasad Mathur v. Karnataka**

University[2]**,** in which the Supreme Court held thus:

> "It is for each university to decide the question of equivalence and it would not be right for the Court to sit in judgment over the decision of the University because it is not a matter on which the Court possesses any expertise. The University is best fitted to decide whether any examination held by a University outside the State is equivalent to an examination held within the State having regard to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. It is an academic question in which the Court should not disturb the decision taken by the University."

To the same effect is also the judgment of the Supreme Court in the case of **State of Rajasthan V. Lata Arun**[3] cited by the learned Standing Counsel for Board of Intermediate Education, wherein it has been held that it is not for courts to determine whether a particular educational qualification possessed by a candidate should or should not be recognized as equivalent to the prescribed qualification, and, such matters fall within the realm of policy decision to be taken by the State Government or the authority vested with power under any statute.

13. Sri Sudesh Anand, learned Standing Counsel for A.P.State Council for Higher Education, submits that having regard to number of letters from individuals and organizations seeking clarification on recognition/approval status of the programmes through distance mode, the Distance Education Council of Indira Gandhi National Open University issued notice/circular dated 05-01-2006, clarifying that some universities, including that of the Janardan Rai Nagar Rajasthan Vidyapeeth, Udaipur, Rajasthan, are not permitted to offer distance education outside the state of their location and that the establishment

of private study centers/franchisees is not permissible.

14. At the outset, it is necessary to notice the rules with regard to admissions in private engineering colleges with reference to institutional spot admissions. Admissions to various professional courses, including technology courses, are governed by statutory provisions of Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983. Initially, rules were framed in G.O.Ms.No.184, Education dated 20-08-1993 in exercise of the powers under the said Act, but, however, they were changed from time to time and new rules were framed in supersession of the earlier rules and the rules now in force are the Andhra Pradesh Un-aided Non-Minority Professional Institutions (Regulation of Admissions into Undergraduate Professional Courses through Common Entrance Test) Rules, 2003, which provide the method of admission and eligibility criteria for entry into professional technology courses. As per rule 4 of the said rules, a candidate, to be eligible for admission into engineering course, shall be an Indian national, should have completed 16 years of age as on December 31 of an academic year, shall pass the qualifying examination (10+2) or equivalent in one-sitting on the date of his/her counselling for admission, and secure rank in the Common Entrance Test conducted by the State and also satisfy other conditions laid down under the rules. Further, as per the proviso, the management seats shall be filled up on the basis of the rank obtained by a candidate in the Common Entrance Test conducted by the State or on the candidate securing not less than 50% of marks in aggregate or in group subjects in the qualifying examination. As per the procedure contemplated under rule 7 of the rules, to fill up the Convenor seats, the seats which are left over and unfilled in un-aided non-minority professional institutions shall be handed over to the

management concerned to fill them in their respective institutions (institutional spot admission) as per the rules by publishing a notification in newspapers and all such admissions made by un-aided non-minority professional institutions shall be ratified by the competent authority. The competent authority/Convenor shall prepare the final list of candidates admitted, course wise, institution wise and send it to various authorities.

15. As per the scheme of the rules referred above, it is clear that a candidate, to be admitted to B. Tech course, has to pass the qualifying examination, i.e. 10+2 or equivalent examination. The Intermediate course is of Senior Secondary stage and conduct of such a course and the matters related thereto are governed by the A.P. Intermediate Education Act, 1971. 'Equivalent course/examination' means the course or examination, which is certified/treated to be equivalent by the authority competent to certify/treat and not any other course or certificate. The said equivalency can be considered by a body constituting academicians having regard to the curriculum and syllabus, etc., with regard to the course for which equivalency is sought for. It is fairly well settled now that whether a particular course or degree is equivalent to another course or degree, is not a matter upon which the courts can make an enquiry. It is exclusively within the domain of the academic bodies. It is also equally well settled that such decisions of academic bodies cannot be tinkered unless there exists strong material to prove that such decision taken by the competent authority is *ex facie* illegal and arbitrary. In this batch of cases, petitioners have questioned the communication sent by the Convenor to various private engineering colleges, in which ratification of certain candidates was rejected on the ground that they are not qualified as

the qualifying course undergone by them cannot be considered as equivalent to that of Intermediate course. The said letter has been issued pursuant to the decision taken by the competent authority i.e. the Board of Intermediate Education. The A.P. Intermediate Education Act, 1971 is a legislation to supervise the system of Intermediate education in Andhra Pradesh and to monitor the course of study, curriculum, and matters connected therewith. There is a provision for constitution of the Board under Section 3 of the Act, headed by the Chairman of the Board, apart from various
ex-officio members, principals of two colleges and junior lecturers. Section 9 of the Act enumerates the various powers of the Board. Rule xii of Section 9 of the 1971 Act reads as under. –

> "(xii) to recognise, any diploma or certificate granted by any other Board or educational authority, whether within or outside the State, as equivalent to the certificate granted by the Board, and any course of study undertaken by candidates as sufficient for the purposes of admitting them for the Intermediate examination."

16. From a reading of the aforesaid provision, it is very clear that the authority competent to consider the aspect of equivalency, i.e. whether a course of study imparted by any other university is equivalent to Intermediate or not, is the Board of Intermediate Education only and nobody else. It is also well settled proposition that when a particular body is conferred with specific power, the said body alone is competent and no other person or body of persons can exercise that power. In the instant case, the petitioners have relied upon certificates issued by various officers in their individual capacities. But, in view of the stand taken by the Board of Intermediate Education that the said

Pre-university course is not equivalent, such certificates issued by the individuals without any statutory authority do not confer any right on the petitioners to seek the relief as prayed for. Whether the Intermediate course, which is at the Senior Secondary level, would come under the purview of university education, is also highly doubtful.

17. No material has been placed before this Court by any of the parties to show, whether the Janardan Rai Nagar Rajasthan Vidyapeeth, Udaipur, Rajasthan, is permitted to offer this kind of course by way of distance education outside the state of Rajasthan. It is not in dispute that the petitioners have appeared for the examination conducted by the said deemed university. However, in the absence of any valid permission and recognition from the competent authority, to start such course, by establishing a private study centre outside the state, the said Pre-university course cannot be run in the State of Andhra Pradesh and the same appears to be contrary to the guidelines issued by the UGC and the Distance Education Council. Moreover, the judgments relied by the learned Standing Counsel for Intermediate Education are exactly on the subject in issue and apply on all fours to the facts and circumstances of the cases on hand.

18. It is for the academic bodies to decide the question of equivalence and the Courts, which do not possess academic expertise, cannot sit over the decision of such bodies. The Academic Body/University is the appropriate authority to decide whether any examination held by a University outside the State is equivalent to an examination held within the State having regard to the courses, the syllabus, the quality of teaching or instruction and the standard of examination. The standard of education varies from State to State or

University to University or Board to Board. In such a situation, equivalency of degrees must be considered for the said purpose by an appropriate authority. It is also well settled proposition that when a particular body is conferred with specific power, the said body alone is competent and no other person or body of persons can exercise that power. In this case, the Board of Intermediate Education is only the authority competent to decide the issue of equivalency, and, after consideration of the matter relating to grant of equivalency, the Board had rejected to grant equivalency to the certificates issued by the Janardhan Rai Nagar Rajasthan Vidyapeeth, Udaipur, Rajasthan State. Hence, the certificates issued by various individuals/authorities without any authority of law and relied upon by the petitioners are of no avail. In the absence of any material to show that the said Pre-university course undergone by the petitioners is equivalent to Intermediate course, petitioners are not entitled for the relief as prayed for.

19. It is stated that though some of the students joined in private engineering colleges, and are at the end of the first semester, they were not allowed to write examinations on the ground that they are not at all qualified to enter into such course. This Court, at the stage of admission, granted interim orders to continue the petitioners to prosecute their studies and made it clear that they shall not claim any equity and the prosecution of the course will be subject to the result of the writ petitions. The fault lies with the Engineering Colleges, which admitted the petitioners, as the Principals of these Engineering Colleges must have taken care to confirm as to the eligibility of the students before admitting them. The student community, at large, while choosing the courses and the universities, should act prudently,

or else their career would be in jeopardy. In any event, in matters of this nature, which have far-reaching consequences on the student community as a whole, petitioners cannot be allowed to continue the course in which they have joined and have been prosecuting their studies pursuant to the interim orders of this court, as they are not qualified to enter into such course right from inception.

20. For the foregoing reasons, I do not find any merit in this batch of writ petitions and the same is accordingly dismissed. There shall be no order as to costs.

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JUSTICE R. SUBHASH REDDY.

August 4, 2006
MRR

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[1] **2003 (6) ALT 761 (D.B.)**
[2] **AIR 1986 SC 1448**
[3] **(2002) 6 SCC 252**